IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 37899 of 2007(J)

PETITIONER:

KOTTAYAM WHOLESALE CO-OPERTIVE CONSUMERS' STORES LTD NO.K.162, THIRUNAKKARA, KOTTAYAM – 686 001.
REPRESENTED BY ITS MANAGING DIRECTOR SRI. M.Y. JOY

BY ADV. SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SRI.ANIL D. NAIR

RESPONDENTS:
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1. **THE ASSISTANT PROVIDENT FUND COMMISSIONER, EMPLOYEES PROVIDENT FUND ORGANISATION, SUB REGIONAL OFFICE, CHALAKUZHY BUILDING, CMS COLLEGE ROAD, KOTTAYAM – 686 001.**

2. **THE RECOVERY OFFICER, EMPLOYEES PROVIDENT FUND ORGANISATION, SUB REGIONAL OFFICE, CHALAKUZHY BUILDING, CMS COLLEGE ROAD, KOTTAYAM – 686 001.**

3. **THE EMPLOYEES PROVIDENT FUND APPELLATE TRIBUNAL, CANAUT CIRCLE, NEW DELHI.**

4. **UNION OF INDIA, REPRSENTED BY ITS SECRETARY GOVERNMENT OF INDIA, MINISTRY OF LABOUR & EMPLOYMENT, NEW DELHI.**

BY SR. JOY THATTIL ITTOOP – SC
ASST. SOL. GENERAL SRI. P. PARAMESWARAN NAIR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)No. 37899 OF 2007

Dated this the 19th day of December, 2007

JUDGMENT

The petitioner challenged orders passed against it under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act before the Provident Funds Appellate Tribunal by filing Ext.P4 appeal. In that appeal, the Tribunal passed Ext.P5 interim order directing the petitioner to deposit 75% of the determined amounts as a condition for entertaining the appeal. The petitioner failed to pay the same. Consequently, by Ext.P6 order the Tribunal dismissed their appeal for non-compliance with Ext.P5 order.

2. The petitioner is challenging Exts.P5 and P6 orders in this writ petition. The petitioner submits that the direction to pay 75% amount was unreasonable taking into account the fact that the petitioner is a Co-operative Society and is in financial hardship.

3. I have heard the learned standing counsel appearing for the Provident Fund Organisation also. Taking into account the

facts and circumstances of the case and the financial difficulties pleaded by the petitioner, I feel that a lenient attitude can be shown to the petitioner in the matter.

4. In the above circumstances, the writ petition is disposed of as follows:

Exts.P5 and P6 orders are quashed. The petitioner shall pay 50% of the amounts demanded as per Ext.P3 order within one month from today. If the petitioner so pays the amounts, the Tribunal shall consider the appeal on merits as expeditiously as possible. Needless to say, if the petitioner pays 50% of the amounts as directed above, Ext.P7 shall not be proceeded with.

S. SIRI JAGAN, JUDGE

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